

That the Mayor be authorized to send thirty (30) day written notice to Cutter Aviation El Paso, Inc. to terminate the sublease agreement as referenced in Article I., Section 1.02 of the sublease agreement by and between the City of El Paso and Cutter Aviation El Paso, Inc., relating to the Non-Commercial Aviation Ground Lease dated June 1, 1994 for the real property located at Lot 28, Block 4, El Paso International Airport Tracts Unit 2, and Lots 29 and 30, Block 4, El Paso International Airport Tracts Unit 1, for the sub-lease of a hangar for use by the Police Department for the period of December 1, 2003 through November 30, 2006.

[Police Department, Interim Assistant Chief Cross, (915) 564-7310]

Back up memo:

Date: August 5, 2004

To: City Clerk

From: Interim Assistant Chief Cross

Subject: Consent City Council Agenda – August 10, 2004

The following is an explanation for the items on the City Council Agenda regarding the Police Department:

Sublessee shall have the right to terminate this Sublease Agreement upon thirty (30) days notice by Sublessee to Sublessor in the event funds are not allocated to pay the rent in connection with Sublessee's budgetary process beginning with the start of Sublessee's fiscal year 2005 on or after September 1, 2004.

Attachment: Resolution

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

That the Mayor be authorized to send thirty (30) day written notice to Cutter Aviation El Paso, Inc. to terminate the sublease agreement as referenced in Article I., Section 1.02 of the sublease agreement by and between the City of El Paso and Cutter Aviation El Paso, Inc., relating to the Non-Commercial Aviation Ground Lease dated June 1, 1994 for the real property located at Lot 28, Block 4, El Paso International Airport Tracts Unit 2, and Lots 29 and 30, Block 4, El Paso International Airport Tracts Unit 1, for the sub-lease of a hangar for use by the Police Department for the period of December 1, 2003 through November 30, 2006.

DATED this 10th day of August 2004.

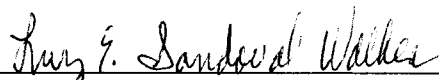
THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Luz E. Sandoval Walker
Assistant City Attorney

SUBLEASE AGREEMENT

This Sublease Agreement is made as of the first day of December, 2003 by and between CUTTER AVIATION EL PASO, INC., an Arizona corporation (formerly known as CUTTER BEACHCRAFT CORPORATION) (hereinafter referred to as "Sublessor") and THE CITY OF EL PASO (hereinafter referred to as "Sublessee").

PRELIMINARY STATEMENTS

A. Sublessor executed that certain Non-Commercial Aviation Ground Lease dated June 1, 1994 between Sublessee, as lessor, and Sublessor, as lessee (the "1994 Ground Lease") pursuant to the terms of which Sublessee leased to Sublessor the real property described on Exhibit "A" (the "Property") for a term of twenty-five (25) years, commencing June 1, 1994, and terminating May 31 2019; a true and correct copy of the 1994 Ground Lease being attached hereto as Exhibit "B".

B. Sublessor and Sublessee have agreed upon the terms and provisions of a Sublease Agreement pursuant to the terms of which Sublessor would lease the Property to Sublessee and Sublessee would lease the Property from Sublessor for a period of time of three (3) years commencing December 1, 2003 and terminating November 30, 2006 with an option to extend the term of the subletting for an additional twelve (12) months and Sublessor and Sublessee desire to reduce such agreement to writing.

ACCORDINGLY, IT IS AGREED AS FOLLOWS:

ARTICLE I. PREMISES; TERM

Section 1.01. Subject to the reservation hereinafter contained, Sublessor hereby subleases to Sublessee, and Sublessee hereby rents from Sublessor, the Property together with the improvements thereon, containing approximately Twelve Thousand (12,000) square feet of space (the "Building"); together with all easements, appurtenances, parking facilities, sidewalks, roads, alleys, means of ingress and egress, utility lines, pipes, and connections appertaining thereto; such real property, the improvements thereon, and appurtenances thereto being hereinafter referred as the "Premises" and being municipally described as 7615 Boeing, El Paso, Texas 79925; provided, however, Sublessor reserves to itself the exclusive right to use the underground storage tank (the "UST") located upon the Property and an easement for ingress and egress over the Property to facilitate Sublessor's use of the UST located upon the Property. With regard to the UST, it is specifically understood and agreed that Sublessee has no right to the use, possession, control, management or operation of the UST and Sublessor acknowledges that Sublessee relinquishes any and all right with respect to UST to Sublessor. With regard to the use of the UST located upon the Property, Sublessor's use of the same to the extent required to enter the Building constituting a part of the Premises may only be accessed at such time as duly authorized employees of Sublessee are located within the Premises and in a manner which will not interfere with Sublessee's use of the Premises.

Section 1.02. The term (the "Term") shall commence on December 1, 2003 and shall expire on November 30, 2006 (the "Termination Date"); provided, however, Sublessee shall have the right to terminate this Sublease Agreement upon thirty (30) days notice by Sublessee to Sublessor in the event funds are not allocated to pay the rent in connection with Sublessee's budgetary process beginning with the start of Sublessee's fiscal year 2005 on or after September 1, 2004.)

Section 1.03. Sublessor hereby grants Sublessee the option to extend the Term for an additional year (the "Renewal Term"), such option to be exercised, if at all, by written notice from Sublessee to Sublessor given not later than sixty (60) days prior to the expiration date of the Term of this Sublease.

Section 1.04. This Sublease Agreement is contingent upon funding. Notwithstanding anything contained in this Sublease Agreement, in the event that funding beyond Sublease fiscal year 2003/2004 is not available, as determined by Sublessee, this Sublease Agreement may be terminated upon thirty (30) days written notice to Sublessor with no further obligations or liability resulting on the part of either party.